

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
APRIL 2, 2013
7:00 P.M.**

I. CALL TO ORDER

Mayor Hovland called the meeting to order at 7:11 p.m.

II. ROLL CALL

Answering rollcall were Members Bennett, Brindle, Sprague, Swenson and Mayor Hovland.

III. MEETING AGENDA APPROVED

Member Brindle made a motion, seconded by Member Sprague, approving the meeting agenda.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

IV. CONSENT AGENDA ADOPTED

Member Swenson made a motion, seconded by Member Bennett, approving the consent agenda as revised to remove Items IV.E. Ordinance No. 2013-05, Amending Chapter 15 Regarding the Edina Art Center Board, and IV.J. Reject Bids for Countryside Shelter Building and Re-authorize Advertisement for Bids, as follows:

IV.A. Approve regular and work session meeting minutes of March 19, 2013

IV.B. Receive payment of the following claims as shown in detail on the Check Register dated March 21, 2013, and consisting of 27 pages; General Fund \$298,650.47; Police Special Revenue \$258.67; Working Capital Fund \$20,981.80; Art Center Fund \$7,338.15; Aquatic Center Fund \$790.43; Golf Course Fund \$21,145.81; Ice Arena Fund \$21,377.22; Edinborough Park Fund \$14,937.29; Centennial Lakes Park Fund \$2,886.22; Liquor Fund \$204,754.83; Utility Fund \$319,283.91; Storm Sewer Fund \$5,570.80; PSTF Agency Fund \$2,424.41; Centennial TIF District \$3,111.60; Grandview TIF District \$150.00; Payroll Fund \$9,529.16; TOTAL \$933,190.77 and for approval of payment of claims dated March 28, 2013, and consisting of 27 pages; General Fund \$201,330.47; Police Special Revenue \$2,411.00; General Debt Service Fund \$2,000.00; PIR Debt Service Fund \$1,975.00; Working Capital Fund \$39,718.75; Equipment Replacement Fund \$50,453.55; Art Center Fund \$1,407.04; Golf Course Fund \$53,406.49; Ice Arena Fund \$38,975.98; Edinborough Park Fund \$523.63; Centennial Lakes Park Fund \$5,824.46; Liquor Fund \$146,564.07; Utility Fund \$42,956.21; Storm Sewer Fund \$1,576.86; Recycling Fund \$32.93; PSTF Agency Fund \$1,662.90; Centennial TIF District \$11,812.33; TOTAL \$602,631.67; and, Credit Card Transactions dated January 27, 2013 – February 26, 2013; TOTAL \$19,533.23.

IV.C. Approve Biryani Wine / 3.2 Liquor Licenses Renewal

IV.D. Approve Smashburger New Wine / 3.2 Liquor Licenses

~~**IV.E. Ordinance No. 2013-05, Amending Chapter 15 Regarding the Edina Art Center Board**~~

IV.F. Adopt Resolution No. 2013-34, approving a Final Plat at 5633 Tracy Avenue for Rod Helm on behalf of Miriam Kiser

IV.G. Adopt Resolution No. 2013-35, authorizing the removal of erroneously levied special assessments by Hennepin County on the 2013 property tax statement

IV.H. Adopt Resolution No. 2013-36, designating France Avenue no parking

IV.I. Request for Purchase, Award of Bid Lake Edina Noise Wall Improvements, ENG 13-11NB - awarding the bid to the recommended low bidder, Rainbow, Inc. at \$31,000.00.

~~**IV.J. Reject Bids for Countryside Shelter Building and Re-authorize Advertisement for Bids**~~

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

ITEMS REMOVED FROM THE CONSENT AGENDA

IV.E. ORDINANCE NO. 2013-05, AMENDING CHAPTER 15 REGARDING THE EDINA ART CENTER BOARD - TABLED

The Council offered edits to strengthen the language of the ordinance and asked staff to also compare its wording with that of the By-Laws and ordinances establishing other Boards and Commissions. The Council agreed the ordinance should not incorporate a list of current activities, as that may frequently change, but should address on-going duties.

Manager Neal noted the Board's activities and functions were addressed in its work plan, which was reviewed and approved by the Council. Due to the extensive edits requested, he suggested the ordinance be tabled to allow time for staff to prepare a revised ordinance. **Member Bennett made a motion, seconded by Member Sprague, to table consideration of Ordinance No. 2013-03, amending Chapter 15 regarding the Edina Art Center Board to the April 16, 2013, Council meeting.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

IV.J. BIDS FOR COUNTRYSIDE SHELTER BUILDING AND RE-AUTHORIZE ADVERTISEMENT FOR BIDS - REJECTED

The Council stated it supported the Countryside Shelter Building retaining the covered picnic table overlooking the play areas, a unique feature, as well as the large window overlooking the skating area. **Member Swenson made a motion, seconded by Member Sprague, to reject bids for Countryside Shelter Building and re-authorize advertisement for bids.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

V. SPECIAL RECOGNITIONS AND PRESENTATIONS

V.A. ARBOR DAY PROCLAIMED – APRIL 26, 2013

Mayor Hovland read in full a proclamation declaring April 26, 2013, to be Arbor Day in the City of Edina. **Member Brindle made a motion, seconded by Member Bennett, approving proclamation declaring April 26, 2013, to be Arbor Day in the City of Edina.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

V.B. EARTH DAY PROCLAIMED – APRIL 22, 2013

Mayor Hovland read in full a proclamation declaring April 22, 2013, to be Earth Day in the City of Edina. **Member Brindle made a motion, seconded by Member Swenson, approving proclamation declaring April 22, 2013, to be Earth Day in the City of Edina.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

Bob Gubrud, Energy and Environment Commissioner, thanked the Council and staff for its support of Earth Day and descried how it would be promoted.

VI. PUBLIC HEARINGS HELD – Affidavits of Notice presented and ordered placed on file.

VI.A. COMPREHENSIVE PLAN AMENDMENT, PRELIMINARY REZONING TO PUD, PRELIMINARY DEVELOPMENT PLAN AND PRELIMINARY PLAT, HUNT ASSOCIATES, 5109 – 5125 WEST 49TH STREET, RESOLUTION NO. 2013-33 AND RESOLUTION NO. 2013-37 – TABLED

Community Development Director Presentation

Community Development Director Teague presented the request of Hunt Associates to redevelop three lots, 5109-5125 West 49th Street. The applicant proposed to tear down the two existing apartments and single-family home on the site (10 units total) and build a new 17-unit attached housing development. The subject properties total 1.43 acres in size so the density of the proposed development would be 12 units per acre.

Mr. Teague explained this was a two-step development review process. The first step takes four votes of the Council due to the Comprehensive Plan Amendment from LDAR, Low Density Attached Residential (4-8 units per acre) to MDR, Medium Density Residential (5-12 units per acre); Preliminary Rezoning from PRD-2 (Planned Residential District-2), to PUD (Planned Unit Development); Preliminary Development; and, Preliminary Plat. He said, if the project was approved, the second step would require three votes of the Council and include Final Rezoning to PUD, Final Development Plan; and, Final Plat.

Mr. Teague stated the Council previously considered a sketch plan for this project and raised concern with regard to density and height. As a result, one unit was removed (from 18 to 17) and the roof design was changed from pitched to flat to lower height. Mr. Teague presented the Planning Commission's recommendation for approval on a vote of 5-3 and its concerns related to reducing density from High Density Residential to Medium Density Residential by eliminating one more unit; reducing the height from four stories to three stories, and shifting the units to gain a larger setback on 49th Street. Since the Planning Commission meeting, the developer revised the plan to reduce drive aisles to 18 feet; however, does not want to shift homes closer to Vernon Avenue and suggested a 31-foot setback, rather than a 37-foot setback, on 49th Street. Mr. Teague presented details of the site plan and landscape plan, indicating the traffic study found the seven units added could be supported by the existing road system. He indicated the park dedication was \$5,000 per unit, totaling \$35,000 for the seven new units. Mr. Teague stated another condition of the Planning Commission was to remove the roof decks on 49th Street. He noted the project would be a vast improvement, create a more efficient use of the property, engage Vernon Avenue, provide garage entries internal to the site, and enhance pedestrian connections.

The Council considered the elevation of easterly homes and proposed buildings and Comprehensive Plan Development Guidelines referencing the need for buffering and pedestrian sidewalks. Member Bennett pointed out that the proposed density, 12 units per acre, was not only the very top end of Medium Density Residential (5-12 units per acre) but also the beginning of High Density Residential (12-30 units per acre). Mr. Teague stated the City hired the traffic consultant but it was paid by the applicant. With regard to the possibility of moving the southbound Highway 100 exit ramp, Mr. Teague stated it was a Mn/DOT discussion under the Grandview Plan consideration. While Mn/DOT expressed willingness to look at the possibility of removing that off ramp, it would require improvements to the intersection.

Proponent Presentation

Chris Palkowitsch, BKV Group, stated the proponent looked at this space as a transition zone from the single-family to the north and Grandview to the south, wanting to integrate townhomes into the neighborhood by having pedestrian connection, an amenity to the neighborhood that would be maintained by the association. He noted this site was challenged with a high side at Vernon Avenue sweeping down to 49th Street. Mr. Palkowitsch described the orientation of the project, size and location of drive lanes, parking areas, shift in location of six buildings, reduction of building height by one foot along 49th Street, and removal of roof decks. He stated the proponent was concerned with the suggestion to reduce the setback from Vernon Avenue by six feet as it would impact the livability of the units. He displayed renderings of the site facing Vernon Avenue, noting front yard spaces that could be shared with the community.

Mr. Palkowitsch provided a picture of exterior elements that included architectural cast stone, fiber cement, battens, and stained wood. He described the building elevations resulting from flat roofs, location of the sidewalk, setbacks to transition down the building height, noting there was 120 feet between the building and residential house. At the request of the Council, Mr. Palkowitsch displayed a slide depicting the exterior building materials, noting the materials would be welcoming and fit well with the neighborhood. Mr. Neal indicated the materials board would be presented during consideration of the Final Plan.

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Mr. Palkowitsch indicated the flat roof could not be further reduced without impacting the Vernon Avenue townhomes. It was noted the three-level townhomes had parking on the lowest level and the front closet could be retrofitted with an elevator to provide accessibility. However, the 49th Street townhomes would not provide accessibility to the patio area. Mr. Palkowitsch stated the units would be for sale and a homeowner's association would address exterior maintenance and snow removal.

The Council asked questions of Mr. Palkowitsch relating to stormwater management measures, how to incent townhome residents to own fewer vehicles and use public forms of transportation, perimeter plantings and focus along Vernon Avenue to engage the street, and sufficiency of parking. Mr. Palkowitsch stated the project would be at the high end of Medium Density as this was a transition space and could support that level of density. It was noted the pathway incorporated stairs to traverse the 20-foot grade change as well as an asphalt path alongside to accommodate walking a bicycle down the grade. With regard to points of measurement to determine building height, Mr. Palkowitsch noted the new garage elevation would be up one foot from the base of the existing garages but the curb line would not be changed.

Mr. Teague explained that should the existing building be razed and a house constructed at 5109, a 75-foot wide lot, the minimum east side setback would be 10 feet, the maximum height to the ridgeline would be 35 feet, and its setback from the street would be required to match the house at 5101 and placed farther back from the street.

Mayor Hovland opened the public hearing at 8:31 p.m.

Public Testimony

Michelle Anderson, 5112 49th Street, addressed the Council.

Nancy Hall, 4501 Parkside Lane, addressed the Council.

Member Swenson made a motion, seconded by Member Brindle, to close the public hearing.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

Mr. Teague addressed issues raised during public testimony relating to a seven-unit townhome previously approved for the westerly portion of this property that had not moved forward. The Council acknowledged the existing structures were ready for replacement and a transitional townhome development was appropriate for this site as long as it maintained strong residential neighborhoods. Support was expressed for the proposed density along Vernon Avenue and the three buildings that face the railroad tracks, and for owner-occupied over rental units.

The Council discussed the project's elements and indicated support of a lower density of 11.1 units by removing the easterly end unit, creating space for a circular drive that would provide trash removal, additional parking and snow storage; submission of existing building diagrams with exact measurements and threshold elevation so a comparison could be made to this proposal; the 49th Street townhomes should embrace 49th Street; the Vernon Avenue townhomes should embrace Vernon Avenue; presentation of the actual materials board; and, adding a sidewalk along 49th Street to assure pedestrian safety and serve residents of the townhomes. Several Members supported the option of a 36-foot setback (equal to building height) on 49th Street, allowing more flexibility to setback on Vernon Avenue than six feet.

Member Bennett indicated she finds this to be a lovely design; however, believed it was in the wrong location. She stated why she supported low density attached residential for this site.

Mr. Neal stated the City had standards to regulate mass, scale, and types of building materials, but not for design and architectural review. Because of that, the City depends on the developer to cooperate and

incorporate the wishes of the Council. Mr. Neal recommended, due to the extensive revisions under discussion, that staff prepare the changes so the Council could review it in writing.

Member Sprague made a motion, seconded by Member Swenson, to table consideration of Comprehensive Plan Amendment, Preliminary Rezoning to PUD, Preliminary Development Plan, and Preliminary Plat, Hunt Associates, 5109-5125 West 49th Street to the April 16, 2013, Council meeting.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VII. COMMUNITY COMMENT

No one appeared to comment.

VIII. REPORTS / RECOMMENDATIONS

VIII.A. RESOLUTION NO. 2013-29 ADOPTED – ACCEPTING VARIOUS DONATIONS

Mayor Hovland explained that in order to comply with State Statutes; all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations.

Member Bennett introduced and moved adoption of Resolution No. 2013-29 accepting various donations. Member Sprague seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VIII.B. ORDINANCE NO. 2013-04 AMENDING CHAPTER 15 OF THE EDINA CITY CODE TO INCLUDE GENDER EXPRESSION – ADOPTED

Human Rights and Relations Commissioner Stanton presented the unanimous recommendation of the Human Rights and Relations Commission to adopt an ordinance including gender expression. **Member Swenson made a motion to grant First and waive Second Reading adopting Ordinance No. 2013-04, amending the City Code Section 1501: Human Rights & Relations Commission.** Member Bennett seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VIII.C. YORKTOWN PARK PILOT COMMUNITY GARDEN AND PARKING LOT – APPROVED

Member Sprague disclosed that he served on the YMCA Southdale Fund Raising Board. City Attorney Knutson advised he could participate in the discussion but would recommend he not participate in the vote. Member Sprague recused himself from both and left the Council Chambers at 9:22 p.m.

Parks and Recreation Director Kattreh reviewed the past consideration of community gardens, formation of the Community Garden Working Group, and its recommendation to approve the Yorktown Park Pilot Community Garden and Parking Lot Project. She displayed the proposed community garden site plan that was 165-foot by 75-foot in size and contained 55 garden plots. It was noted the gardens would be fenced, contain a low-maintenance wood chip walkway, and a water containment tank would be provided. Ms. Kattreh explained the need for parking at Yorktown Park and partnership opportunity with the YMCA, who offered a donation to fund construction of a 122-foot by 110-foot parking lot. She described the application process and aggressive marketing plan and presented the anticipated plot rental revenue and expenses.

Ms. Kattreh answered the Council's questions about the bituminous connection to the garden/pathway and modification to the pathway to accommodate the parking lot. She explained this site was selected based on input from the do.town initiative and Community Health Committee. The Council asked whether, if the City was looking for a garden with community wide draw, it would prefer a site with good street access and parking available. Ms. Kattreh stated she found this site to be ideal for a community garden because this

park land had not experienced a lot of use since it did not have access, parking, or space to accommodate a playing field. In addition, it did not have view impact to single-family residential property.

Member Bennett questioned whether the lack of park and recreational facilities at Yorktown Park may be the reason for low use instead of lack of a parking lot. Ms. Kattreh clarified that the Community Garden Working Group had unanimously supported the community gardens with a parking lot no larger than 15 stalls surfaced with temporary millings from the Public Works Department rather than asphalt. It was asked whether a temporary parking lot may be more appropriate given this was a pilot project. Ms. Kattreh indicated soil testing was conducted and advised that Public Works does not recommend use of recycling millings for a parking lot due to potential for liability, lack of handicapped accessibility, and increased maintenance.

The Council agreed that accessible and convenient parking was necessary to assure the success of the pilot program for community gardens and the proposed parking could also be used by the YMCA, on occasion. **Member Brindle made a motion, seconded by Member Swenson, approving the Yorktown Park Pilot Community Garden and permanent 29-space parking lot.**

With regard to the concern with privatization of public land, City Attorney Knutson advised the City would have a cross access easement agreement with the YMCA to gain access and share parking; however, fee title would not be given to the YMCA for the property. This agreement could extend over a number of years or it could be perpetual. Member Bennett stated she supported community gardens; however, would like a policy in place to identify the decision making process and criteria for location. In this case, she was troubled with the lack-of access from a public street, the creation of-a permanent parking lot for a pilot project and for the chief use of the YMCA, and lack of planning for the future use of Yorktown Park.

Ayes: Brindle, Swenson, Hovland

Nay: Bennett

Motion carried.

Member Sprague returned to the Council dais at 9:54 p.m.

VIII.D. UTILITY FRANCHISE BILL HF1450/SF1490 – REFERRED TO ENERGY AND ENVIRONMENT COMMISSION

Mr. Neal described the proposed legislation that would enable City governments to require energy efficiency goals for Public Utilities Commissions that were regulated utilities in municipal franchise agreements. Following discussion, **Member Sprague made a motion, seconded by Member Bennett, referring Utility Franchise Bill HF1450/SF1490 to the Energy and Environment Commission for additional study and recommendation.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VIII.E. ORDINANCE NO. 2013-03 AMENDING CHAPTER 4 CONCERNING DEMOLITION PERMITS FOR SINGLE AND DOUBLE DWELLING UNITS – ADOPTED

Mr. Neal reviewed the Council's deliberation at its February 19, 2013, meeting and revisions made to the ordinance based on Council direction.

The Council discussed the ordinance language and asked questions of staff to gain clarification.

With regard to allowable hours of operation for construction projects and remodeling projects, Mr. Neal indicated it was conceivable there could be projects across the street from one another governed by different standards. The Council expressed support for additional discussion on creating consistent standards for hours of operation and to remove reference to power equipment. Attorney Knutson suggested that issue be brought back under another consideration.

The Council addressed the importance of site management to assure it was secure between home demolition and reconstruction, questioning whether orange construction fencing adequately addressed public safety. It was agreed to make no language change at this time relating to fencing and entertain feedback before considering a revision.

The Council asked questions of staff relating to issues raised by constituents on notice of demolition activity, dust control, and abatement of hazardous materials. Building Inspector Bomsta advised that during summer demolitions, the contractor usually used a hose to help control dust and some install a sprinkler in the attic prior to demolition. He indicated there were Federal standards on lead paint but not yet on asbestos; however, most companies conduct asbestos testing prior to demolition and remediate that material. The Council agreed that action to control dust should be taken immediately upon notice, not within one hour of notice. With regard to project signage, the Council concurred the sign should be placed and lettering of a size that could be viewed from the street.

Member Sprague made a motion to grant First and waive Second Reading adopting Ordinance No. 2013--03, amending Chapters 1 and 4 of the Edina City Code concerning demolition permits and building permits for single- and two-family dwelling units amended as follows: Section 411.03, Permits. "...is prohibited without a demolition permit issued by...;" Section 411.04, add plurality to "Permit Application(s), form(s), and fee(s);" Section 411.05, Permit Requirements, Subds. 5 and 6, add language indicating "the sign and contents must be visible from the street...;" Section 411.06, Subd. 6, fourth line, delete the comma following the word "keep;" Section 411.06, Subd. 7, change "within one (1) hour of receiving notice" to indicate "immediately upon receiving notice"

Member Swenson seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

The Council requested additional information on the issue of fencing construction sites including how it was addressed by other cities and asked staff bring Section 1040.04 before the Council in two weeks.

VIII.F. REVISION TO APPROVED PLANS FOR SOUTHDALe APARTMENTS – APPROVED

Mr. Teague reviewed the Council's past consideration of the proposed revisions to the approved plans for Southdale Apartments.

Ryan Dunlay, Stuart Companies, stated they worked with BKV Group to revise the plans based on the Council's comments at the last meeting.

Mike Krych, BKV Group, clarified the points of pedestrian connection at the intersection midway along York Avenue, noting the new sidewalk connection to link the transit site to the York Avenue intersection. The Council referenced the recommendation of the Director of Engineering that the crosswalks be enhanced with thermo plastic finish, which had a three- to five-year life span, to match the France Avenue treatment. Mr. Dunlay stated they would comply with that request.

Mr. Krych displayed colored renditions of exterior elevations, noting the top of the building had been changed back to silver in color, subtle color change of the cornice to champagne, windows percentage of glazing and proportions, the addition of triple patio windows, and raised height of entry features with subtle change in material color so it was more integrated with the reinstated cornice. Mr. Krych then displayed the site plan and described the use of colors and building materials. He indicated the development team spent more time to produce a realistic rendering of the project.

The Council expressed support for the updated plan, iconic entry lobby, and coloration of the building's upper floor to arrive at the essence of what had been initially presented. Mr. Krych presented the exterior materials board. **Member Sprague made a motion, seconded by Member Bennett, approving revision to**

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approved plans for Southdale Apartments, as revised to add three thermo plastic crosswalks for the east, west and north crosswalks at York.

Stuart Nolan, representing Stuart Development Company and Simon Properties, thanked the Council for its consideration and agreed the project plans look great. Mr. Dunlay stated it was hoped to start construction early June or July.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

IX. CORRESPONDENCE AND PETITIONS

IX.A. CORRESPONDENCE

Mayor Hovland acknowledged the Council's receipt of various correspondence.

IX.B. MINUTES:

- 1. EDINA COMMUNITY HEALTH COMMITTEE, JANUARY 15, 2013***
- 2. HUMAN RIGHTS & RELATIONS COMMISSION, FEBRUARY 26, 2013***
- 3. ENERGY & ENVIRONMENT COMMISSION, FEBRUARY 14, 2013***
- 4. VETERAN'S MEMORIAL COMMITTEE, FEBRUARY 15, 2013***

Informational; no action required.

X. MAYOR AND COUNCIL COMMENTS – Received

XI. MANAGER'S COMMENTS – Received

XI.A. CITY REPRESENTATIVE TO NOISE OVERSIGHT COMMITTEE (NOC) – APPOINTED

Mr. Neal recommended the Council appoint a member to serve as the City's representative to the Noise Oversight Committee (NOC) At-Large Community Group. The Council discussed the option of appointing a Council Member and community representative as an alternate. **Member Swenson made a motion, seconded by Member Sprague, appointing Member Bennett as the City's representative to the NOC At-Large Community Group and Jim Vose as the Alternate.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

XII. ADJOURNMENT

There being no further business on the Council Agenda, Mayor Hovland declared the meeting adjourned at 11:45 p.m.

Respectfully submitted,

Minutes approved by Edina City Council, April 16, 2013.

Debra A. Mangen, City Clerk

James B. Hovland, Mayor

Video Copy of the April 2, 2013, meeting available.